

AMENDED IN SENATE AUGUST 12, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1537**

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**Introduced by Assembly Member Levine**

January 22, 2014

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An act to amend, repeal, and add Section 65583.2 of the Government Code, relating to land use.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1537, as amended, Levine. General plan housing element: regional housing need.

The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. That law requires the housing element to, among other things, include an inventory of land suitable for residential development and make adequate provision for the existing and projected needs of all economic segments of the community. That law prescribes the densities appropriate to accommodate housing for lower income households and varies those densities depending upon how an area is classified, whether as metropolitan, suburban, or in another category. A city, county, or city and county is required to submit a draft housing element or draft amendment to its housing element to the Department of Housing and Community Development for a determination of whether the draft substantially complies with state law governing housing elements.

This bill would require, until December 31, 2023, a county that is in the San Francisco-Oakland-Fremont; California Metropolitan Statistical

Area and that has a population of less than 400,000 to be considered suburban for purposes of determining the densities appropriate to accommodate housing for lower income households. The bill would, for that same purpose, also require a city that has a population of less than 100,000 and is incorporated within that county to be considered suburban. The bill would require a county or city so classified to make 2 reports, as specified, to the Legislature and the Department of Housing and Community Development. *This bill would require a county subject to the bill to utilize the sum existing in its local housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low income households. The bill would apply housing density requirements in place on June 30, 2013, within  $\frac{1}{2}$  mile of a Sonoma-Marin Area Rail Transit station.*

*This bill would make legislative findings and declarations as to the necessity of a special statute for certain areas of the state.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 65583.2 of the Government Code is
- 2 amended to read:
- 3 65583.2. (a) A city's or county's inventory of land suitable
- 4 for residential development pursuant to paragraph (3) of
- 5 subdivision (a) of Section 65583 shall be used to identify sites that
- 6 can be developed for housing within the planning period and that
- 7 are sufficient to provide for the jurisdiction's share of the regional
- 8 housing need for all income levels pursuant to Section 65584. As
- 9 used in this section, "land suitable for residential development"
- 10 includes all of the following:
- 11 (1) Vacant sites zoned for residential use.
- 12 (2) Vacant sites zoned for nonresidential use that allows
- 13 residential development.
- 14 (3) Residentially zoned sites that are capable of being developed
- 15 at a higher density.
- 16 (4) Sites zoned for nonresidential use that can be redeveloped
- 17 for, and as necessary, rezoned for, residential use.
- 18 (b) The inventory of land shall include all of the following:
- 19 (1) A listing of properties by parcel number or other unique
- 20 reference.

1 (2) The size of each property listed pursuant to paragraph (1),  
2 and the general plan designation and zoning of each property.

3 (3) For nonvacant sites, a description of the existing use of each  
4 property.

5 (4) A general description of any environmental constraints to  
6 the development of housing within the jurisdiction, the  
7 documentation for which has been made available to the  
8 jurisdiction. This information need not be identified on a  
9 site-specific basis.

10 (5) A general description of existing or planned water, sewer,  
11 and other dry utilities supply, including the availability and access  
12 to distribution facilities. This information need not be identified  
13 on a site-specific basis.

14 (6) Sites identified as available for housing for above  
15 moderate-income households in areas not served by public sewer  
16 systems. This information need not be identified on a site-specific  
17 basis.

18 (7) A map that shows the location of the sites included in the  
19 inventory, such as the land use map from the jurisdiction's general  
20 plan, for reference purposes only.

21 (c) Based on the information provided in subdivision (b), a city  
22 or county shall determine whether each site in the inventory can  
23 accommodate some portion of its share of the regional housing  
24 need by income level during the planning period, as determined  
25 pursuant to Section 65584. The analysis shall determine whether  
26 the inventory can provide for a variety of types of housing,  
27 including multifamily rental housing, factory-built housing,  
28 mobilehomes, housing for agricultural employees, emergency  
29 shelters, and transitional housing. The city or county shall  
30 determine the number of housing units that can be accommodated  
31 on each site as follows:

32 (1) If local law or regulations require the development of a site  
33 at a minimum density, the department shall accept the planning  
34 agency's calculation of the total housing unit capacity on that site  
35 based on the established minimum density. If the city or county  
36 does not adopt a law or regulations requiring the development of  
37 a site at a minimum density, then it shall demonstrate how the  
38 number of units determined for that site pursuant to this subdivision  
39 will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in a MSA of 2,000,000 or greater in

1 population in which case the county shall be considered  
2 metropolitan.

3 (2) (A) Notwithstanding paragraph (2), if a county that is in  
4 the San Francisco-Oakland-Fremont, California MSA has a  
5 population of less than 400,000, that county shall be considered  
6 suburban. If this county includes an incorporated city that has a  
7 population of less than 100,000, this city shall also be considered  
8 suburban. This paragraph shall apply to a housing element revision  
9 cycle, as described in subparagraph (A) of paragraph (3) of  
10 subdivision (e) of Section 65588, that is in effect from July 1,  
11 2014, to December 31, 2023, inclusive.

12 (B) A jurisdiction that is classified as suburban pursuant to this  
13 paragraph shall report to *the* Assembly Committee on Housing  
14 and Community Development, the Senate Committee on  
15 Transportation and Housing, and the Department of Housing and  
16 Community Development regarding its progress in developing  
17 low- and very low-income housing consistent with the requirements  
18 of Section 65400. The report shall be provided twice, once, on or  
19 before December 31, 2019, which report shall address the initial  
20 four years of the housing element cycle, and a second time, on or  
21 before December 31, 2023, which report shall address the  
22 subsequent four years of the housing element cycle and the cycle  
23 as a whole. The reports shall be provided consistent with the  
24 requirements of Section 9795.

25 (f) A jurisdiction shall be considered metropolitan if the  
26 jurisdiction does not meet the requirements for “suburban area”  
27 above and is located in ~~a~~ *an* MSA of 2,000,000 or greater in  
28 population, unless that jurisdiction’s population is less than 25,000  
29 in which case it shall be considered suburban.

30 (g) For sites described in paragraph (3) of subdivision (b), the  
31 city or county shall specify the additional development potential  
32 for each site within the planning period and shall provide an  
33 explanation of the methodology used to determine the development  
34 potential. The methodology shall consider factors including the  
35 extent to which existing uses may constitute an impediment to  
36 additional residential development, development trends, market  
37 conditions, and regulatory or other incentives or standards to  
38 encourage additional residential development on these sites.

39 (h) The program required by subparagraph (A) of paragraph (1)  
40 of subdivision (c) of Section 65583 shall accommodate 100 percent

1 of the need for housing for very low and low-income households  
2 allocated pursuant to Section 65584 for which site capacity has  
3 not been identified in the inventory of sites pursuant to paragraph  
4 (3) of subdivision (a) on sites that shall be zoned to permit  
5 owner-occupied and rental multifamily residential use by right  
6 during the planning period. These sites shall be zoned with  
7 minimum density and development standards that permit at least  
8 16 units per site at a density of at least 16 units per acre in  
9 jurisdictions described in clause (i) of subparagraph (B) of  
10 paragraph (3) of subdivision (c) and at least 20 units per acre in  
11 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)  
12 of paragraph (3) of subdivision (c). At least 50 percent of the very  
13 low and low-income housing need shall be accommodated on sites  
14 designated for residential use and for which nonresidential uses  
15 or mixed-uses are not permitted.

16 (i) For purposes of this section and Section 65583, the phrase  
17 “use by right” shall mean that the local government’s review of  
18 the owner-occupied or multifamily residential use may not require  
19 a conditional use permit, planned unit development permit, or other  
20 discretionary local government review or approval that would  
21 constitute a “project” for purposes of Division 13 (commencing  
22 with Section 21000) of the Public Resources Code. Any subdivision  
23 of the sites shall be subject to all laws, including, but not limited  
24 to, the local government ordinance implementing the Subdivision  
25 Map Act. A local ordinance may provide that “use by right” does  
26 not exempt the use from design review. However, that design  
27 review shall not constitute a “project” for purposes of Division 13  
28 (commencing with Section 21000) of the Public Resources Code.  
29 Use by right for all rental multifamily residential housing shall be  
30 provided in accordance with subdivision (f) of Section 65589.5.

31 *(j) Notwithstanding any other provision of this section, within*  
32 *one-half mile of a Sonoma-Marín Area Rail Transit station, housing*  
33 *density requirements in place on June 30, 2013, shall apply.*

34 *(k) A county subject to this section shall utilize the sum existing*  
35 *in the county’s housing trust fund as of June 30, 2013, for the*  
36 *development and preservation of housing affordable to low- and*  
37 *very low income households.*

38 ~~(j)~~

39 (l) This section shall remain in effect only until December 31,  
40 2023, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before December 31, 2023, deletes or extends that  
2 date.

3 SEC. 2. Section 65583.2 is added to the Government Code, to  
4 read:

5 65583.2. (a) City's or county's inventory of land suitable for  
6 residential development pursuant to paragraph (3) of subdivision  
7 (a) of Section 65583 shall be used to identify sites that can be  
8 developed for housing within the planning period and that are  
9 sufficient to provide for the jurisdiction's share of the regional  
10 housing need for all income levels pursuant to Section 65584. As  
11 used in this section, "land suitable for residential development"  
12 includes all of the following:

13 (1) Vacant sites zoned for residential use.

14 (2) Vacant sites zoned for nonresidential use that allows  
15 residential development.

16 (3) Residentially zoned sites that are capable of being developed  
17 at a higher density.

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19 for, and, as necessary, rezoned for, residential use.

20 (b) The inventory of land shall include all of the following:

21 (1) A listing of properties by parcel number or other unique  
22 reference.

23 (2) The size of each property listed pursuant to paragraph (1),  
24 and the general plan designation and zoning of each property.

25 (3) For nonvacant sites, a description of the existing use of each  
26 property.

27 (4) A general description of any environmental constraints to  
28 the development of housing within the jurisdiction, the  
29 documentation for which has been made available to the  
30 jurisdiction. This information need not be identified on a  
31 site-specific basis.

32 (5) A general description of existing or planned water, sewer,  
33 and other dry utilities supply, including the availability and access  
34 to distribution facilities. This information need not be identified  
35 on a site-specific basis.

36 (6) Sites identified as available for housing for above  
37 moderate-income households in areas not served by public sewer  
38 systems. This information need not be identified on a site-specific  
39 basis.

1 (7) A map that shows the location of the sites included in the  
2 inventory, such as the land use map from the jurisdiction's general  
3 plan for reference purposes only.

4 (c) Based on the information provided in subdivision (b), a city  
5 or county shall determine whether each site in the inventory can  
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7 need by income level during the planning period, as determined  
8 pursuant to Section 65584. The analysis shall determine whether  
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12 shelters, and transitional housing. The city or county shall  
13 determine the number of housing units that can be accommodated  
14 on each site as follows:

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16 at a minimum density, the department shall accept the planning  
17 agency's calculation of the total housing unit capacity on that site  
18 based on the established minimum density. If the city or county  
19 does not adopt a law or regulations requiring the development of  
20 a site at a minimum density, then it shall demonstrate how the  
21 number of units determined for that site pursuant to this subdivision  
22 will be accommodated.

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24 shall be adjusted as necessary, based on the land use controls and  
25 site improvements requirement identified in paragraph (5) of  
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28 of the regional housing need for lower income households pursuant  
29 to paragraph (2), a city or county shall do either of the following:

30 (A) Provide an analysis demonstrating how the adopted densities  
31 accommodate this need. The analysis shall include, but is not  
32 limited to, factors such as market demand, financial feasibility, or  
33 information based on development project experience within a  
34 zone or zones that provide housing for lower income households.

35 (B) The following densities shall be deemed appropriate to  
36 accommodate housing for lower income households:

37 (i) For an incorporated city within a nonmetropolitan county  
38 and for a nonmetropolitan county that has a micropolitan area:  
39 sites allowing at least 15 units per acre.



1 (ii) For an unincorporated area in a nonmetropolitan county not  
2 included in clause (i): sites allowing at least 10 units per acre.

3 (iii) For a suburban jurisdiction: sites allowing at least 20 units  
4 per acre.

5 (iv) For a jurisdiction in a metropolitan county: sites allowing  
6 at least 30 units per acre.

7 (d) For purposes of this section, a metropolitan county,  
8 nonmetropolitan county, and nonmetropolitan county with a  
9 micropolitan area shall be as determined by the United States  
10 Census Bureau. A nonmetropolitan county with a micropolitan  
11 area includes the following counties: Del Norte, Humboldt, Lake,  
12 Mendocino, Nevada, Tehama, and Tuolumne and other counties  
13 as may be determined by the United States Census Bureau to be  
14 nonmetropolitan counties with micropolitan areas in the future.

15 (e) A jurisdiction shall be considered suburban if the jurisdiction  
16 does not meet the requirements of clauses (i) and (ii) of  
17 subparagraph (B) of paragraph (3) of subdivision (c) and is located  
18 in a Metropolitan Statistical Area (MSA) of less than 2,000,000  
19 in population, unless that jurisdiction's population is greater than  
20 100,000, in which case it shall be considered metropolitan. A  
21 county, not including the City and County of San Francisco, shall  
22 be considered suburban unless the county is in ~~in~~ *an* MSA of  
23 2,000,000 or greater in population in which case the county shall  
24 be considered metropolitan.

25 (f) A jurisdiction shall be considered metropolitan if the  
26 jurisdiction does not meet the requirements for "suburban area"  
27 above and is located in ~~in~~ *an* MSA of 2,000,000 or greater in  
28 population, unless that jurisdiction's population is less than 25,000  
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35 extent to which existing uses may constitute an impediment to  
36 additional residential development, development trends, market  
37 conditions, and regulatory or other incentives or standards to  
38 encourage additional residential development on these sites.

39 (h) The program required by subparagraph (A) of paragraph (1)  
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12 of paragraph (3) of subdivision (c). At least 50 percent of the very  
13 low and low-income housing need shall be accommodated on sites  
14 designated for residential use and for which nonresidential uses  
15 or mixed-uses are not permitted.

16 (i) For purposes of this section and Section 65583, the phrase  
17 “use by right” shall mean that the local government’s review of  
18 the owner-occupied or multifamily residential use may not require  
19 a conditional use permit, planned unit development permit, or other  
20 discretionary local government review or approval that would  
21 constitute a “project” for purposes of Division 13 (commencing  
22 with Section 21000) of the Public Resources Code. Any subdivision  
23 of the sites shall be subject to all laws, including, but not limited  
24 to, the local government ordinance implementing the Subdivision  
25 Map Act. A local ordinance may provide that “use by right” does  
26 not exempt the use from design review. However, that design  
27 review shall not constitute a “project” for purposes of Division 13  
28 (commencing with Section 21000) of the Public Resources Code.  
29 Use by right for all rental multifamily residential housing shall be  
30 provided in accordance with subdivision (f) of Section 65589.5.

31 (j) *This section shall become operative on December 31, 2023.*

32 *SEC. 3. The Legislature finds and declares that a special law*  
33 *is necessary and that a general law cannot be made applicable*  
34 *within the meaning of Section 16 of Article IV of the California*  
35 *Constitution because of the special circumstances of certain areas*  
36 *of the state relating to regional housing needs.*